

IN RE: PETITION FOR VARIANCE
E/S Glen Dairy Court, 700' SE
of Dairy Road
(10 Glen Dairy Court)
6th Election District
3rd Councilmanic District
Dennis E. Bauerle, Sr., et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 93-290-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance filed by the owners of the subject property, Dennis E. Bauerle, Sr. and his wife, Carolyn Bauerle. The Petitioners request relief from Section 1A00.3.B.3 to permit a side property line setback of 28 feet in lieu of the required 50 feet for Lot 11 of Glen Dairy, in accordance with Petitioner's Exhibit 1.

Appearing on behalf of the Petitioners were Carolyn Bauerle, one of the property owners, and Jeffrey V. Jaras, with Leon A. Podolak and Associates, who prepared the site plan of the property, and Raymond E. Bosley, Builder. There were no Protestants at the hearing.

Testimony indicated that the subject property, known as 10 Glen Dairy Court, consists of 5.28 acres zoned R.C. 5 and is improved with a partially completed dwelling. The Petitioners recently commenced construction of a single family dwelling on the subject property. Testimony indicated that when the surveyor staked the subject dwelling out on the property, the dwelling was situated on a hill. The Petitioners were concerned about its location and when the Builder began construction of the dwelling, he readjusted its location and inadvertently constructed the foundation in the wrong location. The error was not discovered until after the first floor deck had been placed thereon and the Petitioners obtained a copy of

the bank location survey. The Petitioners then filed the instant Petition in order to correct the matter. Testimony indicated that they have discussed the matter with their neighbors who have no objection to the relief requested.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel.

In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 23rd day of April, 1993 that the Petition for Variance requesting relief from Section 1A00.3.B.3 to permit a side property line setback of 28 feet in lieu of the required 50 feet for Lot 11 of Glen Dairy, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date 4/23/93
By [Signature]

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 113, Courthouse
400 Washington Avenue
Towson, MD 21204

April 22, 1993

(410) 887-1386

Mr. & Mrs. Dennis E. Bauerle, Sr.
1517 E. Fort Avenue
Baltimore, Maryland 21230

RE: PETITION FOR VARIANCE
E/S Glen Dairy Court, 700' SE of Dairy Road
(10 Glen Dairy Court)
6th Election District - 3rd Councilmanic District
Dennis E. Bauerle, Sr., et ux - Petitioners
Case No. 93-290-A

Dear Mr. & Mrs. Bauerle:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. Jeffrey V. Jaras, c/o Leon A. Podolak & Associates
63 E. Main Street, Westminster, Md. 21152

Mr. Raymond E. Bosley
P.O. Box 685, Hampstead, Md. 21074

People's Counsel

[Signature]



Petition for Variance

to the Zoning Commissioner of Baltimore County
for the property located at
10 Glen Dairy Court
Parkton, Maryland 21120
which is presently zoned RC5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1A00.3.B.3 (OLD RDP)

TO PERMIT A (SIDE) PROPERTY LINE SETBACK OF 28 FT. IN LIEU OF THE REQUIRED 50 FT. (FOR LOT 11)

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

- 1) The foundation was excavated and constructed by error in the wrong location.
- 2) To remove and re-construct the foundation would result in undue hardship on the owners.
- 3) The error was not the result of owners own actions

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/lessor:

N/A

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner:

N/A

(Type or Print Name)

Who do solemnly declare and affirm, under the penalties of perjury, that they are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

Dennis E. Bauerle, Sr.

(Type or Print Name)

Dennis E. Bauerle, Sr.

Carolyn Bauerle

(Type or Print Name)

Carolyn Bauerle

(H) 685-1787

1517 E. Fort Avenue (W) 296-2088

Baltimore Maryland 21230

City State Zipcode

Home Address and phone number of legal owner, contract purchaser or representative to be contacted:

Leon A. Podolak and Associates

63 E. Main Street, P.O. Box 266

Westminster, MD. 21158 876-1226

Address Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

Indicate date for hearing

ALL OTHER

REVIEWED BY: DATE

LEON A. PODOLAK AND ASSOCIATES

SURVEYING AND CIVIL ENGINEERING
63 EAST MAIN STREET, P.O. BOX 266
WESTMINSTER, MARYLAND 21157
TELEPHONES: WESTMINSTER 848-2229 BALTIMORE 876-1226

ZONING DESCRIPTION FOR 10 Glen Dairy Court

Election District 6-th (address)
Councilmanic District 3-rd

Beginning at a point on the East side of
(north, south, east or west)

Glen Dairy Court which is Fifty feet
(street on which property fronts) (number of feet of right-of-way width)

wide at a distance of 700'± Southeast of the
(number of feet) (north, south, east or west)

centerline of the nearest improved intersecting street Dairy Road
(name of street)

which is Sixty Feet (future)
(number of feet of right-of-way width) wide. *Being Lot # 11

Block n/a, Section # n/a in the subdivision of
Glen Dairy (name of subdivision)
as recorded in Baltimore County Plat

Book # E.H.K., Jr. 36, Folio # 104, containing
229, 996.80 sq. ft., 5.28 Acres±
(square feet and acres)

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 6th Date of Posting: 4/1/93

Posted by: [Signature]

Petitioner: Dennis E. Bauerle, Sr. & Carolyn Bauerle

Location of property: 10 Glen Dairy Ct., 700' SE Dairy Rd.

Location of Sign: Along road & way, as property of Petitioner

Remarks:

Posted by: [Signature] Date of return: 4/1/93

Number of Signs: 1

CERTIFICATE OF PUBLICATION

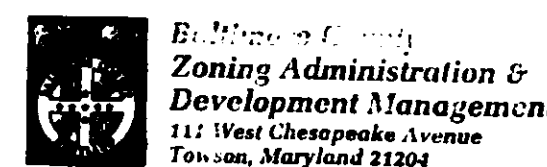
TOWSON, MD., 3/18, 1993

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 3/18, 1993

THE JEFFERSONIAN,

S. Zeke Orlov
Publisher

\$72.63



Baltimore County
Zoning Administration &
Development Management
112 West Chesapeake Avenue
Towson, Maryland 21204

93-290-A receipt

Account: R-001-6150

Number

Date

DATE OF RECEIPT

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DATE: 3/22/93

Dennis and Carolyn Bauerle
1517 E. Fort Avenue
Baltimore, Maryland 21158

RE: CASE NUMBER: 93-290-A (Item 301)
E/S Glen Dairy Court, 700' +/- SE of Dairy Road
10 Glen Dairy Court
6th Election District - 3rd Councilmanic
Petitioner(s): Dennis E. Bauerle, Sr. and Carolyn Bauerle
HEARING: MONDAY, APRIL 19, 1993 at 11:30 a.m. in Rm. 118, Old Courthouse.

Dear Petitioner(s):

Please be advised that \$72.63 is due for advertising and posting of the above captioned property and hearing date.

THE ZONING SIGN & POST SET(S) MUST BE RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Forward your check for the above fee via return mail to the Zoning Office, (ZADM), County Office Building, 111 W. Chesapeake Avenue, Room 109, Towson, Maryland 21204. Please write the case number and hearing date on the check and make same payable to Baltimore County, Maryland. To avoid delay of the Zoning Commissioner's Order in your case, immediate attention to this matter is suggested.

Arnold Jablon

ARNOLD JABLON
DIRECTOR



NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-290-A (Item 301)
E/S Glen Dairy Court, 700' +/- SE of Dairy Road
10 Glen Dairy Court
6th Election District - 3rd Councilmanic
Petitioner(s): Dennis E. Bauerle, Sr. and Carolyn Bauerle
HEARING: MONDAY, APRIL 19, 1993 at 11:30 a.m. in Rm. 118, Old Courthouse.

Variance to permit a (side) property line setback of 28 feet in lieu of the required 50 feet (for lot #11).

Arnold Jablon

Arnold Jablon
Director

cc: Dennis and Carolyn Bauerle
Leon A. Podlak and Associates

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.



Mr. and Mrs. Dennis E. Bauerle, Sr.
1517 E. Fort Avenue
Baltimore, MD 21230

RE: Case No. 93-290-A, Item No. 301
Petitioner: Dennis E. Bauerle, Sr., et ux
Petition for Variance

Dear Mr. and Mrs. Bauerle:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on March 4, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.



Ms. Julie Winiarski
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No. 93-290-A (JLL)

Dear Ms. Winiarski:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small
for John Contestabile, Chief
Engineering Access Permits
Division

My telephone number is 410-333-1350

Typewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 505-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21202-0717

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: March 18, 1993

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):
Item Nos. 295, 296, 301, 303.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: *Jeffrey W. Long*

Division Chief: *Pat Keller*

PK/JL:lw

295.ZAC/ZAC1

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: March 19, 1993

FROM: J. Lawrence Pilson
Development Coordinator, DEPRM

SUBJECT: Zoning Item #301
Bauerle Property, 10 Glen Dairy Court
Zoning Advisory Committee Meeting of March 15, 1993

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains.

JLP:rmp

BAUERLE/DCRMP

Baltimore County Government
Fire Department

700 East Joppa Road Suite 901
Towson, MD 21286-5500

MARCH 24, 1993

(410) 887-4500

Arnold Jablon

Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: DENNIS E. BAUERLE, SR. AND CAROLYN BAUERLE

Location: #10 GLEN DAIRY COURT

Item No.: 301 (JLL) Zoning Agenda: MARCH 15, 1993

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *Carl Perry* Noted and
Planning Group Approved
Special Inspection Division Fire Prevention Bureau

JP/KEKH



PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
JEFFREY V. JARRAS	63 E. MAIN ST WESTMINSTER, MD 21157
CAROLYN BAUERLE	1517 E. FORT AVE BALTIMORE, MD 21202
ROBERT E. BAUERLE	Box 685 Hampstead, MD 21074

